

REMARKS

Claims 6-9 and 11-36 are pending. Claims 15 and 18 have been withdrawn from consideration. The independent claims were previously limited to compositions “consisting essentially of” chlorogenic acid and an organic acid. This supplemental response incorporates the changes made by the prior amendments and responds to the provisional obviousness-type double patenting rejections. A clean copy of the pending claims is presented above with no further amendments. Favorable consideration and allowance of this application is respectfully requested.

This supplemental response refers to the provisional obviousness-type double patenting rejections. The Applicants respectfully request that these rejections be held in abeyance pending the identification of otherwise allowable subject matter. For the convenience of the Examiner, the Applicants reiterate their earlier Remarks below:

Election/Restriction

The Applicants thank Examiner Coe for rejoining Claims 8, 11-14 and 16-17. Applicants previously elected the species (A) chlorogenic acid and (B) organic acid (lactic acid). Upon an indication of allowability for the elected species the Applicants understand that examination will be extended to other species.

Rejection—35 U.S.C. 103

Claims 6-9, 11-14, 16, 17 and 19-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheng et al., Chinese Pharm. J. 46:575 and Ahn, U.S. Patent No. 4,981,852. The Applicants reiterate their prior arguments with regard to this rejection. As previously discussed, Cheng, Table 1, only discloses that chlorogenic acid reduces arterial blood pressure in spontaneously hypertensive rats by -24.9 ± 5.6 mmHg at an ED50 of 10.1 ± 2.6 mg/kg. The vehicle in Cheng in which the chlorogenic acid is administered is Locke Ringer Solution, see page 577, 9th line from the bottom of the page, which does not contain an organic acid. Thus, Cheng does not disclose or suggest the combination of chlorogenic acid with an organic acid.

The remaining concern was that the prior art might suggest the combination of chlorogenic acid with a composition comprising triampterene and lactic acid as a solubilizing agent. While the Applicants disagree that there is any suggestion to combine chlorogenic acid with the triampterine-containing composition of Ahn, they note that triampterine is a diuretic with antihypertensive properties (Ahn, col. 1, lines 11-17). Thus, to further distinguish the claimed composition from Ahn, Claim 6 has now been amended to use the phrase “consisting essentially of” which permits the claimed composition to include ingredients that do not affect its basic and novel properties. Accordingly, the Applicants respectfully request that this rejection now be withdrawn.

Provisional Obviousness-type Double Patenting Rejections

Claims 6-9 and 19-29 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 2-6, 10-16, and 30-39 of copending application no. 09/922,694;

Claims 6-9, 11-14, 19-29 and 31 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 2-6, 10-16, and 30-39 of copending application no. 09/922,694, in view of U.S. Patent No. 4,981,852;

Claims 6-9 and 19-29 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 11-16 of copending application no. 10/632,810 or 10/826,289;

Claims 6-9, 11-14, 19-29 and 31 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 11-16 of copending application no. 10/632,810 or 10/826,289, in view of U.S. Patent No. 4,981,852;

Claims 6-9, 11-14, 19-29 and 31 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of copending application no. 10/810,611 in view of U.S. Patent No. 4,981,852.

PAIR indicates that none of the copending applications has been indicated as being allowable.

The Applicants respectfully request that these provisional rejections be held in abeyance pending the identification of otherwise allowable subject matter. The Applicants

Appl. No.: 09/944,079

Supplemental Amendment to Office Action of July 13, 2004

respectfully request that upon an indication of allowability for the present claims, that these "provisional" double patenting rejection be withdrawn and this application permitted to issue, see MPEP 822.01.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Thomas M. Cunningham
Registration No. 45,394

Customer Number

22850

Tel.: (703) 413-3000

Fax: (703) 413-2220

NFO:TMC:krs